

Considered
J.P.
06/09/09

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket No. SIR-MIS-00001-US-CIP[2])

In the Application of:)	
)	
McSwiggen, James <i>et al.</i>)	
)	Examiner: Pitrak, Jennifer S.
Serial No.: 10/693,059)	
)	Group Art Unit: 1635
Filing Date: October 23, 2003)	
)	Confirmation No.: 1557
For: RNA Interference Mediated)	
Inhibition of Gene Expression)	
Using Chemically Modified Short)	
Interfering Nucleic Acid (siNA))	

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

DECLARATION UNDER 37 C.F.R. 1.132

I, Peter Haeberli, do hereby declare as follows:

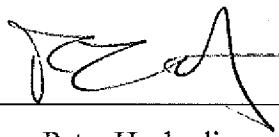
1. I am currently the Managing Counsel in the Office of General Counsel of Merck & Co., responsible for managing the company's RNA therapeutics patent portfolio. I hold a J.D. from the University of Denver Sturm College of Law, and a B.S. from the University of Colorado. I am a member of the California State Bar, the Colorado State Bar, and the Patent Bar (Registration No. 52,980). Previously, and specifically, between the years of 2001 and 2007, I served as the manager of the intellectual property program at Ribozyme Pharmaceuticals, Inc., a predecessor of Sirna Therapeutics Inc., and subsequently as the Associate Director and Director of Intellectual Property at Sirna Therapeutics Inc., before it became a wholly-owned subsidiary of Merck & Co. in 2007. In those capacities, I prepared, filed, and/or have filed multiple patent applications on RNA therapeutics with the Patent and Trademark Office, including the instant patent application USSN 10/693,059, as well as USSN 10/224,005 (the '005 application), which has been published as US 2003/0143732. I am familiar with the subject matter disclosed and claimed in the above-identified patent applications, the scientific discoveries that had led to the filings of these applications, as well as the contributions made by the respective named inventors to the claimed inventions in each.

2. Based on my knowledge of the subject matter of the claimed invention in the instant application as well as the subject matter of the other applications prepared for and/or filed by me on behalf of Sirna Therapeutics Inc., I conclude that the invention claimed herein that was also disclosed in the '005 application was derived from Dr. James McSwiggen, who is an inventor of the instant application (USSN 10/693,059), and therefore is not the invention "by another" according to 35 U.S.C. § 102(e).

3. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: 27 May 2009

By:


Peter Haeberli